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Atty. Docket No.: P67552US0

REMARKS

The Office Action mailed August 19, 2004, ("the August Action") has been carefully reviewed. Claims 15, 19-28 and 30 are pending in the application. Claims 15, 27, 28 and 30 are independent.

By this Response, Applicants request favorable reconsideration of the pending claims in view of the evidence of non-obviousness represented by the Declaration of Wolfgang Billinger as previously provided in accordance with 37 C.F.R. 1.132. The Examiner is also asked to reconsider the breadth of the remarks presented in the Amendment filed on July 9, 2004, ("the July Amendment") with respect to the present invention and the prior art, which arguments will not be repeated here in the interest of avoiding duplication.

The Declaration of Wolfgang Billinger was submitted concurrently with the July Amendment. However, in noting the absence of any comment by the Examiner in regard to such Declaration in the August Action, Applicants' representative contacted Examiner Holzen on September 28, 2004, to inquire as to whether the Declaration had been considered. Examiner Holzen indicated that the Declaration had been inadvertently separated from the July Amendment for scanning purposes. As a result, he

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had not considered the Declaration when preparing the August Action, but assured Applicants' representative that he would do so in conjunction with Applicants' next response.

In the August Action, the Examiner stated that Applicants' arguments filed in the July Amendment were persuasive with respect to the previous rejection of claim 15, which was under 35 U.S.C. 103(a) on the basis of Applicants' prior art disclosure in view of U.S. Patent No. 4,966,802 to Hertzberg. As a result, the Examiner withdrew the rejection. However, the Examiner then rejected claim 15 on a new ground of rejection, namely Applicants' prior art disclosure in view of Hertzberg and further in view of ordinary skill in the art. Claims 19, 20, 24, 25, 27 and 28 were also rejected on this ground.

Applicants hereby request withdrawal of this rejection as having been overcome by the Declaration of Wolfgang Billinger in conjunction with Applicants' previous remarks and discussion of the prior art as provided in the July Amendment.

As set forth in his Declaration, Mr. Billinger has extensive education and experience in the field of composite structures and materials (paragraphs 2 and 3). In view of his qualifications, his opinion as to the level of ordinary skill in the aviation field as related to composite technology serves as

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evidence of the non-obviousness to such persons of making a fitting of synthetic composite material.

More particularly, Mr. Billinger states in paragraph 6 of his Declaration that persons of ordinary skill, when faced with the need for an aircraft fitting suitable for high load applications, have historically relied upon *metal* fasteners and fittings. Such persons would not look to Hertzberg as the teaching therein relates to *laminated panel* construction with no contemplation of the use of fiber reinforced resin elements in the formation of fittings (paragraphs 9 and 10).

Mr. Billinger further states that he has no knowledge of anyone in the aviation industry having considered the use of a fitting such as that currently being claimed (paragraph 11), and that when he introduced such a fitting in 2002, the reaction among his peers was skepticism as to the adequacy of such fitting for withstanding the high shearing stresses of high-load aircraft applications (paragraph 12).

Clearly, persons of ordinary skill in the art did not consider synthetic composite material to be suitable for the intended use of a high-load aircraft fitting and, therefore, selection of such material was not a matter of obvious design choice but instead a non-obvious departure from known solutions.

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In view of the foregoing evidence relating to the level of ordinary skill in the art, claim 15, as well as independent claims 27 and 28, are clearly patentable over the prior art. Applicants further note that the patentability of these claims is further evidenced by the recent grant of the corresponding Austrian patent application, as well as the allowance and imminent grant of the corresponding European patent application.

Finally, the Examiner rejected claims 21, 22, 23 and 26 under 35 U.S.C. 103(a) as being unpatentable over Applicants' prior art disclosure in view of EP 0 532 016 A1 to Padden, and rejected claim 30 as being unpatentable over Applicants' prior art disclosure in view of Hertzberg, further in view of ordinary skill in the art, and further in view of Padden.

Applicants submit that independent claim 30 is in condition for allowance for the same reasons as those already discussed in connection with claims 15, 27 and 28. Claims 21, 22, 23 and 26 are in condition for allowance as claims properly dependent on an allowable base claim. Favorable consideration is requested.

In the event the Examiner does not agree with the Applicants as to the allowability of the pending claims and issues a further Office Action, Applicants request that such

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Action be non-final. This request is justified due to the separation by the U.S. Patent and Trademark Office of the Declaration of Wolfgang Billinger from the July Amendment which prevented the Examiner from affording such Declaration timely consideration and necessitated the present "resubmission" of the same.

Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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